

JS 44 (Rev. 08/16)

CIVIL COVER SHEETCounty in which action arose: Wayne

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CHRISTOPHER ANDREWS

DEFENDANTS

CARIBBEAN CRUISE LINE, INC.

(b) County of Residence of First Listed Plaintiff Wayne
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Pro Se
P.O. Box 530394, Livonia, MI 48153
(248) 635-3810

Attorneys (If Known)
Smith Haughey Rice & Roegge PC
100 Monroe Center Street NW
Grand Rapids, MI 49503

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Plaintiff asserts causes of action under 47 U.S.C. s 227 and 15 U.S.C. s 6101 et seq.

Brief description of cause:

Plaintiff alleges he received two violative telephone calls without his consent

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ 3,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE 22
December 21, 2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ Yes
☒ No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER ANDREWS,

Plaintiff,

v.

CARIBBEAN CRUISE LINE, INC.,

Defendant.

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CASE NO.:

NOTICE OF REMOVAL

Defendant CARIBBEAN CRUISE LINE, INC. (“CCL” or “Defendant”), pursuant to 28 U.S.C. §§ 1331, 1367, 1441(a), and 1446, with full reservation of all defenses, hereby removes this action from the 16th Judicial District, Livonia, Michigan to the United States District Court for the Eastern District of Michigan. In support of this Notice of Removal, CCL states as follows:

I. Background

1. On or about November 28, 2016, Plaintiff Christopher Andrews filed an Affidavit and Claim instituting this lawsuit in the 16th Judicial District, Livonia, Michigan, Case No. 16-2028 SC (the “Affidavit and Claim”). A true and correct copy of the Affidavit and Claim served upon CCL is attached hereto as Exhibit A.

2. The suit arises from two alleged telephone calls to Plaintiff’s cellular telephone allegedly placed by Defendant that Plaintiff alleges violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”), the Do Not Call Act, 15 U.S.C. § 1601 *et seq.* (“DNCA”), and the Michigan Consumer Protection Act.

3. On December 6, 2016, Defendant was served in Florida by mail with a copy of

the Affidavit and Claim.

4. Pursuant to the Affidavit and Claim, Defendant must appear in court in the 16th Judicial District on January 4, 2017.

5. Defendant now timely removes this action to this Court.

II. Basis for Jurisdiction

6. This Court has jurisdiction over this removed action pursuant to 28 U.S.C. §§ 1331, 1367, and 1441(a). This claim could have been originally filed in this Court pursuant to 28 U.S.C. § 1331, as this Court has original jurisdiction over all civil actions arising under the “Constitution, laws, or treaties of the United States.”

7. Plaintiff’s Affidavit and Claim asserts violations of the two federal laws, the TCPA and the DNCA. *See generally* Ex. A. The Supreme Court of the United States in *Mims v. Arrow Financial Services LLC*, 132 S. Ct. 740, 747-53 (2012), addressed the issue of whether the federal district courts have jurisdiction over TCPA claims, holding that such a claim is, in fact, one that “arises under” the laws of the United States. And the DNCA expressly specifies that an affected person can bring a private right of action “in an appropriate district court of the United States.” 15 U.S.C. § 6104. As such, this Court has federal question jurisdiction over this matter.

8. Indeed, pursuant to 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” Thus, this Court has federal question jurisdiction.

9. Based upon the foregoing, this Court has federal question jurisdiction over this

action and venue is proper in this Court.

10. The Court also has supplemental jurisdiction over any claim under the Michigan Consumer Protection Act pursuant to 28 U.S.C. § 1367, as any such claim is so related to the TCPA and DNCA claims over which the Court has original jurisdiction that it forms part of the same case or controversy under Article III of the United States Constitution.

III. Notice Given

11. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be promptly served on Plaintiff, and a copy will be promptly filed with the Clerk of the 16th Judicial District, Livonia, Michigan.

IV. Removal is Timely Filed

12. This Notice has been timely filed within thirty (30) days of Defendant's receipt of the filed Affidavit and Claim on December 6, 2016, as required by 28 U.S.C. § 1446(b)(2).

V. Pleadings and Process

13. As required by 28 U.S.C. § 1446(a), copies of all state court process and pleadings served upon Defendant are attached to this Notice of Removal as Exhibit A.

VI. Venue

14. Pursuant to 28 U.S.C. § 1441(a), venue in this District Court is proper for purposes of removal because this action is currently pending in the 16th Judicial District, Livonia, Wayne County, Michigan, which is in the same District as the United States District Court for the Eastern District of Michigan, Southern Division.

VII. Non-Waiver of Defenses

15. Nothing in this Notice shall be interpreted as a waiver or relinquishment of Defendant's rights to assert any defense or affirmative matter, including, without limitation,

motions to dismiss pursuant to Federal Rule of Civil Procedure 12.

ACCORDINGLY, pursuant to 28 U.S.C. §§ 1331, 1367, 441(a), and 1446, this Court has jurisdiction over this matter, and Defendant CARIBBEAN CRUISE LINE, INC. hereby removes this action from the 16th Judicial District, Livonia, Michigan, to this Court.

Dated: December 22, 2016

Respectfully Submitted,

/s/ Kristen E. Guinn

Kristen E. Guinn (P72148)
SMITH HAUGHEY RICE & ROEGGE
100 Monroe Center , NW
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Jeffrey.Backman@gmlaw.com
Roy.Taub@gmlaw.com

*Attorneys for Defendant
Caribbean Cruise Line, Inc.*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by U.S. first class mail on this 22nd day of December 2016, to the following:

Christopher Andrews
P.O. Box 530394
Livonia, Michigan 48153

Plaintiff Pro Se

/s/ Kristen E. Guinn
KRISTEN E. GUINN

Exhibit A

Approved, SCAO

STATE OF MICHIGAN JUDICIAL DISTRICT 16th	AFFIDAVIT AND CLAIM Small Claims	CASE NO. 16-2028 5C
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Court address **32765 FIVE MILE ROAD LTVONTA, MI. 48154** Court telephone no. **734-466-2500**

See instructions on the back of plaintiff and defendant copies.

1. **CHRISTOPHER ANDREWS**
Plaintiff **P.O. BOX 530394**
Address **LTVONTA, MI. 48153** Telephone no. **313-3810**

2. **CARIBBEAN CRUISE LINE INC.**
Defendant **ANDREW DOLES ET AL**
Address **5100 N STATE ROAD 17**
City, state, zip **FORT LAUDERDALE, FLORIDA** Telephone no. **352-3399**

NOTICE OF HEARING	
For Court Use Only	
The plaintiff and the defendant must be in court on	
Day Wednesday	Date JANUARY 4 2017
Time 3:00 pm	at <input checked="" type="checkbox"/> the court address above.
Location _____	
Process server's name CERT MAIL	Fee paid: \$ 70.00 + 13.00
	Form 1.00

- ☐ 3. A civil action between these parties or other parties arising out of the transaction or occurrence alleged in this complaint has been previously filed in _____ Court. The case number, if known, is _____
- The action ☐ remains ☐ is no longer pending.
4. I have knowledge or belief about all the facts stated in this affidavit and I am
☒ the plaintiff or his/her guardian, conservator, or next friend. ☐ a partner. ☐ a full-time employee of the plaintiff.
5. The plaintiff is ☒ an individual. ☐ a partnership. ☐ a corporation. ☐ a sole proprietor. ☐ Other _____
6. The defendant is ☐ an individual. ☐ a partnership. ☒ a corporation. ☐ a sole proprietor. ☐ Other _____
7. The date(s) the claim arose is/are **NOVEMBER 05, 2015 AND NOVEMBER 06, 2015**
8. Amount of money claimed is \$ **3,000.00** (NOTE: Plaintiff's costs are determined by the court and awarded as appropriate. They are not part of the amount claimed.)
9. The reasons for the claim are **VIOLATING TCPA OF 1991, 47 USC 227, DO NOT CALL ACT 2003 PUBLIC LAW 108-10 CODIFIED AT 15 USC 6101 AND MICHIGAN CONSUMER PROTECTION ACT BY CALLING MY CELL PHONE AND SPEAKING WITH ME CAUSING ME TO FEEL IN LTVONTA, MI. I PAY BY THE MINUTE FOR LONG DISTANCE**
10. The plaintiff understands and accepts that the claim is limited to \$5,500 by law and that the plaintiff gives up the rights to (a) recover more than this limit, (b) an attorney, (c) a jury trial, and (d) appeal the judge's decision.
11. I believe the defendant ☒ is ☐ is not mentally competent. I believe the defendant ☒ is ☐ is not 18 years or older.
12. ☐ I do not know whether the defendant is in the military service. ☐ The defendant is not in the military service.
☐ The defendant is in the military service.

Subscribed and sworn to before me on **11/28/16** _____ County, Michigan.

My commission expires: _____ Date _____

Notary public, State of Michigan, County of _____

The defendant(s) must be served by **02/27/17** Expiration date